UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>v.<br><br>ELLIS SAAD and KATHY SAAD,<br><br>Defendants. | CIVIL ACTION NO. 3:94-0014<br><br>JUDGE ROBERT L. ECHOLS |

UNITED STATES' STATUS REPORT

Plaintiff, the United States of America, on behalf and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), and pursuant to the Court's Order of May 23, 1994, hereby submits this Status Report. This Status Report includes a summary of the activities undertaken and completed at the Saad Trousdale Road Site located at 3655 Trousdale Road, Nashville, Tennessee (the "Site"), and a request and recommendation for additional removal action and the estimated time required for completion of the work.

Concurrently with the filing of this Status Report the United States is filing a Renewed Motion for Access, a Memorandum of Points and Authorities Supporting the Renewed Motion for Access, and a Proposed Order Granting Access.

INTRODUCTION

In the Notice of Submission of Proposed Order, filed on April 14, 1994, the United States advised the Court that the response actions at the Site for which access was sought, could include: (1) soil and materials sampling and characterization to

identify the type and extent of contamination; (2) geophysical studies to identify both the geology and location of perched water, free flowing water, and groundwater underlying the Site; (3) dye trace testing to locate the possible pathways of suspected contamination; (4) an engineering evaluation of the impact on the structural integrity of the railroad tracks which excavation or intrusive sampling may have on the embankment located beneath the CSX Transporation, Inc. railroad tracks; and, (5) the associated excavation and movement of soil and material. The Court granted the United States access to the Site for a period of eight (8) months, and ordered:

> At the completion of this eight-month period, EPA shall submit a summary of its results to the Court, along with its recommendations for remedial action and the estimated time for completion of the work. The parties shall then be required to return to the Court to discuss the progress of the work, the balance of the work to be done, and the anticipated date of completion.

Memorandum Opinion, page 5.

To date, EPA has completed sampling and characterization of the Site's soil and material; completed location of perched and free flowing water, and groundwater underlying the Site; initiated dye testing to locate possible pathways of contamination; supervised the completion of an engineering evaluation on the CSX railroad tracks; continued identification and notification of potentially responsible parties; negotiated and issued two Administrative Orders for the removal of hazardous waste from the Site; and, supervised the excavation and removal

of 1,800 cubic yard of contaminated material. The following paragraphs summarize EPA's activities since April 7, 1994:

A. Soil and Materials Sampling and Characterization

During November 1994, EPA and the Steering Committee's[1] contractor conducted sampling of soil and sludge at the Site. Results from the samples taken indicate that the contaminated material contains known carcinogens and is a hazardous waste by characteristic.[2] A copy of the analysis is attached as Exhibit A. The contaminated material is in direct contact with groundwater at the Site, thereby posing a risk to human health and the environment. EPA has concluded that additional soil and sludge must be removed to alleviate the threat of harm.

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[1] The Steering Committee is comprised of approximately 100 parties potentially liable for the costs of the clean-up, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq. ("CERCLA").

[2] RCRA is the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. §.6901, et seq. "The term hazardous waste means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may . . . (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." 42 U.S.C. § 6903(5).

B. Geology and Groundwater Studies

Samples of the groundwater[3] underlying the Site were taken on December 14, 1994. The analysis indicates that concentrations of contaminants exceed action levels[4] for at least four hazardous substances.[5] See Exhibit A. Removal of the source of contamination may reduce the concentration of contaminants in the groundwater.

C. Dye Trace Testing

EPA commenced the bidding process for the dye trace testing, designed to locate the possible pathways of suspected contamination, by publishing a Request For Proposal on May 18, 1994. Nick Crawford, Ph.D. was retained by EPA to conduct the dye trace testing. Between July 8 and July 22, Dr. Crawford developed a work plan identifying the locations of dye injection and the types of dyes and receptors to be used. A copy of the work plan is attached as Exhibit B.

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[3] EPA has determined that the Site's groundwater is a potential source of drinking water. Federal law requires the protection of potential sources of drinking water. See 40 C.F.R. Part 300; see also, the Public Health Service Act, 42 U.S.C. § 1401, et seq.

[4] In this case, the "action levels" are the Maximum Contaminant Levels (MCLs) for the various contaminants. The "maximum contaminant level" means the maximum permissible level of any physical, chemical, biological, or radiological substance or matter in water which is delivered to any user of a public water system.

[5] The hazardous substances detected in excess of action levels are trichloroethene (TCE), vinyl chloride, 1,2 di-chloroethene, and toluene. In addition, ethylbenzene and other hazardous substances are present in the hazardous material at the Site.

In July, EPA met with the Steering Committee and provided a copy of the dye trace sampling work plan. In August, the dye trace testing was scheduled to start in the area of the Site. However, EPA was denied access to the adjacent properties by CSX Transportation, Inc. (CSX) and General Electric (GE) when EPA's contractor, Dr. Crawford, arrived to inject the dye. Both CSX and GE are represented on the Steering Committee, and were present during the July meeting when the dye testing work plan was presented and discussed. Neither CSX nor GE advised EPA that they would deny access to their properties during the July meeting or at any time prior to EPA's attempted entry.

EPA entered into access agreements with GE on August 9, 1994 and CSX on September 15, 1994. On September 18 and 20, EPA injected the dyes on the properties adjacent to the Site. Copies of the Access Agreements are attached as Exhibits C and D. Between July and September, while EPA was negotiating these access agreements, an unknown party injected dye on the Site. EPA was concerned that this unauthorized injection of dye tainted the original test. Therefore, on November 5, 1994 EPA began a second round of dye injection. The monitoring of the dye trace receptors continues, and EPA anticipates completion of this phase of testing in April 1995, barring any further complications. Additional access will be needed at the Site during this time to install two monitoring wells to be used in the continuing dye trace activities.

D. Engineering Evaluation

At EPA's direction, CSX's contractor, Ogden Geotechnical, performed the engineering evaluation, and provided a written report to EPA during on December 15, 1994. This report provides an estimate of the remaining volume of contaminated material both on the Site and on the adjacent CSX property. A copy of the Engineering Evaluation is attached as Exhibit E.

E. Contaminated Soil and Sludge Removal

On April 8, 1994, EPA commenced negotiations with the Steering Committee to continue the removal action. These negotiations continued through October 1994, when the majority of the Steering Committee's members and EPA executed an Administrative Order on Consent to excavate and remove approximately 800 cubic yards of contaminated soil and sludge from the Site. A copy of the Administrative Order is attached as Exhibit F.

During the interim period, EPA continued its efforts to identify and contact additional potentially responsible parties. In October, EPA identified ALCOA as a potentially responsible party for the contamination at the Site and requested that ALCOA join the cleanup efforts. On December 9, 1994, ALCOA and EPA executed an Administrative Order on Consent requiring, inter alia, the removal of 1,000 cubic yards of contaminated material. A copy of the Administrative Order is attached as Exhibit G.

Under EPA's direct supervision, ALCOA completed the removal of the 1,000 cubic yards of contaminated material on December 15,

1994. During ALCOA's removal activities, EPA's On-Scene Coordinator, Fred Stroud, determined that at least 3,000 cubic yards of contaminated material remains on the Site, and that approximately 1,200 cubic yards of contaminated material remains on CSX's property.

REQUEST FOR FURTHER ACCESS AND RECOMMENDATION FOR REMOVAL ACTION

EPA is in the process of seeking approval, through an Action Memo, to complete the required work at the Site itself if the Steering Committee chooses not to continue the work. The excavation at the Site has been left open so that work may be reinstituted quickly. See Exhibit H. As stated above, approximately 4,200 cubic yards of contaminated material must be removed from the Site and disposed of properly. EPA estimates that an additional access period of between four (4) and six (6) months, depending on disposal options, is required to complete the removal action on the Site.

The United States is prepared to present the testimony of Fred Stroud, EPA's On-Scene Coordinator, to discuss the activities conducted by EPA during the access period. If requested by the Court, the United States will present the

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testimony of Dr. Crawford to discuss the dye trace testing and related activities.

DATED: January 24, 1995

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I CAUSED A COPY of the foregoing UNITED STATES' STATUS REPORT to be served on January 25, 1995 by U.S. Mail, postage pre-paid, on: Ellis Saad and Kathy Saad, 3655 Trousdale Road, Nashville, Tennessee 37204.